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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/043,574	03/26/98	HALBLANDER	S 98037

LM02/1220  
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EXAMINER

CAUDLE, P

ART UNIT	PAPER NUMBER
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2765

*7*

DATE MAILED:

12/20/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No.

09/043,574

Applicant(s)

HALBLANDER, STEFAN J.

Examiner

Penny Caudle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

- 1) ☐ Responsive to communication(s) filed on 16 November 1999.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2,3,5,9,11,15,16 and 19-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 2,3,5,9,11,15,16 and 19-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
  2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_\_.
  3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

### Attachment(s)

- 14) ☒ Notice of References Cited (PTO-892)
- 15) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 17) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other:

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### **DETAILED ACTION**

1. In response to the Amendment filed on November 16, 1999, claims 1, 4, 6-8, 10, 12-14 and 17-18 have been canceled and new claims 21-31 have been added. Claims 2, 3, 5, 9, 11, 15, 16, 19-31 are pending.

#### ***Claim Objections***

2. Claims 2, 3, 5, 9, 11, 15, 16, 19 and 20 are objected to because of the following informalities: All the claims currently depend from claim 1 which has been canceled by the applicant. The claims should depend from the single independent claim (claim 21). Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2, 3, 5, 9, 11, 15, 16, 19-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. For example in

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claim 21 lines 11 and 12, "first optionally determines the optimal job sequence at each point in time for each resource", it is unclear what is meant by the phrase "optionally determines". In claim 23 lines 3-4, "resources, when they are available and have been intended or set up to generate a corresponding message which is evaluated by optimization –simulation", it is unclear as to what limitation the resources employ, i.e. is the resource that generates messages to be evaluated and if so when are they generated. In claim 25, the phrase "through optimization-simulation, dynamic priorities all optional jobs".

Due to the claims being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention, the following art rejections are based on the examiner's interpretation of claims.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims ??? are rejected under 35 U.S.C. 102(b) as being anticipated by Parad (U.S. 5,369,570).

As per claims 21 and 25, Parad discloses a process for situation-related deployment or activation of resources comprising:

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-in the case of an event occurring at a point in time, resources relevant to the event are checked for their suitability and availability for jobs to be executed based on priority, as stated in column 4 lines 18-21, "The present invention comprises methods for continuous prospective scheduling and control of multiple interdependent resources to accomplish predetermined goals in a timely and efficient manner.";

-taking into account the entire job and using criteria necessary for job execution, determining the optimal job sequence at that point in time for each resource, as stated in column 5 lines 15-22, "Preferably, pre-compile formulas create parameters used by the scheduling process to precisely model dependent resource amount and timing relationships of unlimited complexity...accurately describe resource availability...are continuously adjusted to reflect real world situations...";

-in order to select an available resource for the best possible job at the time of its availability to deploy and activate the resource for a particular job, as stated in column 5 lines 54-58, "The present invention provides operational modes for automatic response and interaction with an operator. Heuristic methods preferably identify problems, establish priorities, identify all the alternative and best solutions, and implement actions with minimal data entry".

As per claim 22, Parad discloses all the limitations as set forth in claim 21 with the addition of after occurrence of an event, from stored master data independently a check is made for their relevance to the event and in the case of positive results, the resources are made available for deployment decision with event-related data. As stated in column 5 lines 5-10,

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“Continuous operation is achieved by consolidating change activity by resource, and controlling the sequence of updates by relative resource level.”.

As per claim 23, Parad discloses all the limitations as set forth in claim 21 above with the addition of the resources generate messages, when they are available for have been allocated to a job, which are evaluated for generation of deployment decisions. As stated in column 8 lines 30-38, “Messages in the protocol of command primitives are received from other systems, action controls, or other resources engines and processed 102...Primitives that apply to more than one resource are processed immediately to update control tables or trigger processing of one or more affected resources.”.

As per claim 24, Parad discloses all the limitations as set forth in claim 21 above with the addition of the resources in each case generate a message at commencement of their availability and at the end of one of the jobs which they have carried out and in the case of interruption information as well as of unscheduled interruption and upon lapse of availability. As stated in column 9 lines 40-47, “Sources of information in 214 that describe activities relevant to resource management, send command messages 215 to one or more resource engines 203...Messages describe resource requirements, products and process characteristics, dependencies and status.

As per claim 26, Parad discloses all the limitations as set forth in claim 21 above with the addition of the deployment decision for activation of resources can be suspended by retraction of the necessary conditional data required for resource activation. As stated in column 9 lines 52-55, “The action control process 217 maintains rules that order notices by priority within tables

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221. The action control sends requests for actions 207 to appropriate systems 214 to alter operations.”.

As per claim 27, Parad discloses all the limitations as set forth in claim 21 above with the addition of jobs can be canceled by input of corresponding data and their processing by means of optimization-simulation. As stated in column 9 lines 52-55, “The action control process 217 maintains rules that order notices by priority within tables 221. The action control sends requests for actions 207 to appropriate systems 214 to alter operations.”.

As per claim 30, Parad discloses all the limitations as set forth in claim 21 above with the addition of as criteria for optimization, costs and/or meeting deadlines and/or work load and/or quality of the job are selected. As stated in column 5 lines 5-10, “Continuous operation is achieved by consolidating change activity by resource, and controlling the sequence of update by relative resource level. Consolidation maintains a linear relationship between throughput and workload.”.

As per claim 2, Parad discloses all the limitations as set forth in claim 21 above with the addition of the event in question is triggered independently or manually according to a specified schedule from stored data or at certain times by means of exceeding limit values. . As stated in column 9 lines 52-55, “The action control process 217 maintains rules that order notices by priority within tables 221. The action control sends requests for actions 207 to appropriate systems 214 to alter operations.”.

As per claim 3, Parad discloses all the limitations as set forth in claim 21 above with the addition of the events are formed from data generated by technical facilities independently or

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through manual activation of input elements. As stated in column 8 lines 30-33, "Messages in the protocol of command primitives are received from other systems, action controls, or other resources engines and processed 102."

As per claim 16, Parad disclose all the limitations as set forth in claim 21 above with the addition of the resource can be stationary or mobile. As stated in column 10 lines 40-44, "...process to schedule a multitude of resource types including, but not limited to, materials, machine and labor capacity, and time itself."

### *Conclusion*

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



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8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Charvillat (U.S. 5,315,586) discloses a resource reallocation method for user traffic.

-White et al (U.S. 5,524,007) disclose a system for dynamic allocation of bandwidth based on system loading.

-Srinivasan (U.S. 5,548,506) disclose automated project management system.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Penny Caudle whose telephone number is (703) 305-0756. The examiner can normally be reached Monday-Thursday from 6:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen MacDonald, can be reached at (703) 305-9708.

The fax number for Formal or Official faxes to Technology Center 2700 is (703) 308-9051 or 9052. Draft or Informal faxes for this Art Unit can be submitted to (703) 308-1396.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.



plc

December 15, 1999

ALLEN R. MACDONALD  
SUPERVISORY PATENT EXAMINER